IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Banarsi Das & ors. Versus State of Rajasthan. & Anr.

S.B. Criminal Misc. Petition No. 51/2004
against the order dated 20-11-2003 passed
by the Addl. Sessions Judge, Raisinghnagar,
in Criminal Revision No. 5/2002.

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Date of Order: December 18, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr M.K. Garg, for the petitioners.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.
Mr. H.S.S. Kharlia, for the non-petitioner No.2.

BY THE COURT:

This criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter) is directed against the order dated 20.11.2003 passed by the Additional Sessions Judge, Raisinghnagar, district Sri Ganganagar (for short, "the Revisional Court" hereinafter) in Criminal Revision No. 5/2002, whereby the revision petition filed by the non-petitioner No.2 was partly allowed and the order of the Additional Chief Judicial Magistrate, Raisinghnagar, district Sri Ganganagar (for short, "the trial Court" hereinafter) in private complaint No. 102/2001 (Narpat

Singh Vs. Kamlesh Kumari & ors.) was set aside and the matter was remanded to the trial Court to decide the complaint in accordance with law.

I have heard learned counsel for the parties. Carefully gone through the orders passed by the trial Court as well as the Revisional Court.

It is contended by the learned counsel for the petitioners that in the revision petition, though petitioners No.1 to 3 were impleaded as a party non-petitioners, but without effecting the services of notice on them, the Revisional Court has decided the revision petition. He has invited my attention to the order sheet of the Revisional Court dated 29-6-2002, wherefrom it appears that the counsel appeared before the Revisional Court stated that he does not wish to summon the present petitioners No.1 to 3 and in absence of notice to them, the revision petition was decided.

The impugned order is obviously against the petitioners No.1 to 3 to the extent that in the FIR, Kamlesh Kumari, Kishan Lal, Atul and Banarsi Das have been impleaded as the accused, which is evident from the FIR. In the circumstances, therefore, without examining the impugned order of the Revisional Court on merit, the order impugned cannot be sustained as it has been passed in absence of notice of the revision petition to the petitioners.

In the result, the criminal miscellaneous petition is allowed. The impugned order dated 20-11-2003 passed by the Revisional Court is set aside and the matter is remanded to the Revisional Court to decide the matter afresh in accordance with law after hearing the parties to the revision petition.

(H.R. PANWAR), J.

mcs